

JUDGE CROTTY

08 CV 1662
Civ.

VERIFIED COMPLAINT

HERMITAGE RESOURCES LTD.

Plaintiff, ENEL Trade S.p.A. (“ENEL Trade”), by and through its attorneys, Betancourt, Van Hemmen, Greco & Kenyon LLC, for its Verified Complaint against Defendant, alleges upon information and belief as follows:

1. Plaintiff ENEL Trade is a foreign corporation with an place of business at Rome, Italy.
2. Upon information and belief, Defendant Hermitage Resources Ltd. (“Hermitage Resources”) is a foreign corporation with a place of business at London, England.
3. This Verified Complaint alleges an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and this Court has admiralty jurisdiction over such claim pursuant to 28 U.S.C. § 1333.
4. At all relevant times, ENEL Trade was the disponent owner of the ocean-going vessel MV SHOGUN (or “Vessel”).

5. Pursuant to a Voyage Charter Party dated February 22, 2007 ("Charter"), ENEL Trade chartered the SHOGUN to Hermitage Resources as charterer for a voyage from Nikolajev to Malta to carry a cargo of fuel oil.

6. Hermitage was obligated under the Charter to pay demurrage at the rate of \$28,500 per day and wharfage costs at Malta.

7. Pursuant to the Charter, the Vessel duly completed loading 30,467.506 tons of fuel oil at Nikolajev on March 3, 2007, and completed discharging the cargo at Malta on March 16, 2007.

8. Pursuant to the Charter, ENEL Trade has issued invoices to Hermitage Resources for demurrage totaling \$186,581.51 and wharfage costs totaling \$6,747.76 (4,613.04 EUROS at the February 14, 2008 exchange rate), for a total due of \$193,329.27.

9. ENEL Trade has fulfilled its obligations for payment of the demurrage and wharfage costs and, despite due demand, Hermitage Resources has failed to pay the invoices, thus breaching its obligations under the Charter.

10. As a result of this breach, ENEL Trade as suffered principal damages in the amount of \$193,329.27, exclusive of interest, attorneys fees and arbitration costs.

11. The Charter provides for application of English Law and London arbitration, which arbitration ENEL Trade is pursuing and does not waive.

12. The prevailing party under English Law and in London arbitration is generally awarded interest, attorneys fees and arbitration costs.

13. ENEL Trade expects to claim the following estimated amount in London arbitration: (a.) Principal amount: \$193,329.27; (b.) three years interest at 8% per annum: \$50,208.89; (c.) Attorneys' fees: \$75,000; (d.) Arbitration costs: \$25,000, for a total claim of \$343,538.16.

14. Hermitage Resources cannot be found within this District within the meaning of Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims, but on information and belief, Hermitage Resources has, or will have during the pendency of this action, property within the District, including funds or credits being held by, or being transferred through, one or more garnishee banks or financial institutions within the District.

WHEREFORE, Plaintiff prays:

A. That process in due form of law in accordance with Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims and in the form of Process of Maritime Attachment be issued and levied against all property of Hermitage Resources within the District, including all funds being held by, or being transferred through, one or more garnishee banks or financial institutions within the District, up to the amount of \$343,538.16;

B. That process in due form of law issue against Hermitage Resources, citing it to appear and answer under oath the matters alleged in this Verified Complaint, and that judgment in favor of ENEL Trade be entered against Hermitage Resources in the amount of \$343,538.16 should they default; and

C. That this Court grant ENEL Trade such other, further and different relief as is deemed just and proper.

Dated: February 19, 2008

BETANCOURT, VANHEMMEN, GRECO & KENYON LLC
Attorneys for Plaintiff

By Todd P. Kenyon
Todd P. Kenyon (TK/654)
Attorneys for Plaintiff
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New York, New York 10006
212-297-0050

ATTORNEY VERIFICATION

STATE OF NEW JERSEY)
 :ss:
COUNTY OF MONMOUTH)

TODD P. KENYON, being duly sworn, deposes and says:

I am a member of the firm Betancourt, Van Hemmen, Greco & Kenyon LLC, attorneys for Plaintiff herein. I have read the foregoing Verified Complaint, and know the contents thereof, and the same are true and correct to the best of my knowledge, information and belief. I have reviewed documentation concerning this matter provided by Plaintiff and have corresponded with them on the information provided. I am authorized by Plaintiff to make this verification. I am making this verification since there is no officer or director of Plaintiff within the District to execute this verification.

Todd P. Kenyon
Todd P. Kenyon

Sworn and subscribed before me on
February 19, 2008

Carol Haimowitz
Notary Public

Carol Haimowitz
Notary Public
My Commission Expires
May 3, 2011